

Before S. S. Sodhi, J.

RUPINDER SINGH,—Appellant.

versus

JASWANT SINGH AND OTHERS,—Respondents.

First Appeal from Order No. 481 of 1981.

May 28, 1985.

Motor Vehicles Act (IV of 1939)—Section 110-B—Minor girls aged 8 and 4 killed in motor accident—No other child surviving to the parents—Mother admittedly incapable of having more children—Parents of deceased—Whether can be denied compensation on the ground that no pecuniary loss suffered by them.

Held, that it is well settled that the parents do have a legitimate expectation of financial support from their children particularly in their old age when their children would be gainfully employed. Further it is indeed a fallacy to assume that merely because the deceased happen to be minor girls, the parents would not be entitled to compensation. Court cannot in this behalf lose sight of the fact that girls in ever increasing numbers are taking up employment and that too in almost all fields. Marriage is, no doubt, the natural aspiration of young girls and it is also true that after marriage they go into their husband's family, but according to the social norms, that have now emerged, it would be wrong to assume that a woman gainfully employed would not extend financial support to her parents, if they be in need. Parents cannot, therefore, be denied compensation merely on the ground that the deceased was their daughter and not a son. The compensation payable to the parents would, of course, depend upon various factors like age and health of the minor child as also that of her parents, their position and status in life, both in their context of their expectations from their child as also what they would have provided to the child in her up-bringing and education and what consequently the child could be expected to make of herself in life and what the cost thereof would have been to her parents. In this view of the matter it has to be held that the parents of the deceased child can not be denied compensation under section 110-B of the Motor Vehicles Act 1939 on the ground that the parents have not suffered pecuniary loss.

(Paras 1 & 8)

First Appeal from the order of the Court of Shri Hira Lal Garg, PCS, Addl. Sessions Judge, Patiala dated 29th July, 1981, allowing the petition of Rupinder Singh and awarding compensation of Rs. 3,000 to him. The compensation shall be payable by Jaswant Singh respondent No. 1 to him together with interest at the rate of 5 per cent per annum from 25th November, 1978, the date of accident, till realisation. Jaswant Singh respondent shall also pay the

costs of litigation to Rupinder Singh petitioner-counsel fee is assessed at Rs. 50. The petition filed by Balbir Singh and Baljit Kaur however is dismissed with no order as to costs.

Ujagar Singh Sr. Advocate with K. S. Cheema and K. S. Sidhu, Advocate.

G. S. Chawla Advocate for Respondent No. 2.

JUDGMENT

S. S. Sodhi, J.

(1) The claimant Rupinder Singh was taking his young nieces Simrat Jot and Mandeep Jot to School when the truck DHG—3417 coming from the opposite direction hit into his scooter. In the resultant accident both the children were killed while Rupinder Singh sustained injuries. It was the finding of the Tribunal that this accident had been caused entirely due to the rash and negligent driving of the truck-driver. A sum of 3,000 was awarded as compensation to Rupinder Singh for the injuries caused to him. No compensation was, however, awarded to the parents of the two young girls, as it was held that it had not been shown that they had suffered any pecuniary loss on account of the death of their children. Herein lies the challenge in appeal, including a claim for enhanced compensation in the case of claimant Rupinder Singh.

(2) The material on record would show that when on the date of the accident, Rupinder Singh was examined by P.W. 4 Dr. Parmodh Kumar Kohli of the Post Graduate Institute, Chandigarh, he was found to have six injuries on his person. These being:—

1. Closed head injury.
2. Blunt trauma to the abdomen.
3. Abrasion on the back.
4. Lacerated wound in front of right leg.
5. Two punctured wound front of left thigh.
6. Abrasion front of left leg.

(3) Next to note is the certificate exhibit P/5 issued by Dr. K. K. Mahajan, who operated upon Rupinder Singh during his stay in the hospital. According to this Certificate, the operation revealed a perforation in the duodenal and free blood in the peritoneal cavity.

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The perforation was over-sewn. There were no other internal injuries. According to the certificate, Rupinder Singh remained admitted in the hospital from November 25, 1978 to December 8, 1978.

(4) Turning now to the statement of the claimant; P.W. 5 Rupinder Singh, it will be seen that according to his testimony, he developed some post-operation problems and had to be admitted to the Post Graduate Institute again for another 12 days.

(5) Mr. Ujagar Singh appearing for the claimant Rupinder Singh claimed compensation under three main heads. These being; loss of business, cost of medical treatment and compensation for general damages meaning thereby pain and suffering and loss of amenities of life. It deserves mention at the very out-set that except the bald statement of the claimant, there is no evidence on record to show the extent of the loss of business, if any, that the claimant suffered on account of this accident or of the amount spent by him on his medical treatment. In this situation, no interference with the amounts awarded by the Tribunal, under these heads, would indeed be warranted. The Tribunal had awarded Rs. 1,000 for medical expenses and Rs. 2,000 for loss of business.

(6) The Tribunal, however, clearly fell in error in making no award for pain and suffering and loss of amenities of life which the claimant undoubtedly had to endure on account of his injuries. Considering the nature and extent of the injuries suffered by him, the operation he had to undergo and the duration of his consequent disabilities, it would be fair and just to hold him entitled to a sum of Rs. 12,000 on this account. In other words, the total compensation payable to the claimant Rupinder Singh deserves to be enhanced to Rs. 15,000.

(7) Taking up now the claim for compensation put-forth by the parents of the two minor children, killed in this accident, the evidence on record would show that Simrat Jot deceased was only about 8-Years of age at the time of her death, while her younger sister Mandeep Jot was only 4-Years old at that time. P.W. 3 Balbir Singh, their father was 38 years old when this accident occurred.

(8) It is well settled that parents do have a legitimate expectation of financial support from their children particularly in their old age when their children are gainfully employed. Further it is indeed a fallacy to assume that merely because the deceased happens

to be a minor girl, her parents would not be entitled to compensation. Courts cannot in this behalf lose sight of the fact that girls in ever increasing numbers are taking up employment and that too in almost all fields. Marriage is, no doubt, the natural aspiration of young girls and it is also true that after marriage they go into their husband's family, but according to the social norms, that have now emerged, it would be wrong to assume that a woman gainfully employed would not extend financial support to her parents, if they be in need. Parents cannot, therefore, be denied compensation merely on the ground that the deceased was their daughter and not a son. The compensation payable to the parents would, of course, depend upon various factors like age and health of the minor child as also that of her parents, their position and status in life, both in the context of their expectations from their child as also what they would have provided to the child in her up-bringing and education and what consequently the child could be expected to make of herself in life and what the cost thereof would have been to her parents. There are also the other imponderables too as set-forth in Full Bench in *Lachhman Singh v. Gurmit Kaur*, (1) in so far as they are relevant in dealing with the matter relating to compensation payable to the parents in respect of the death of their minor children.

(9) In the present case, it will be seen that Simrat Jot and Mandeep Jot were the only two children of their parents. Further, it was the unrebutted testimony of the father P.W. 3 Balbir Singh that his wife was not capable of having any other child on account of the operation that she had undergone. This is indeed a matter of material significance here. Further, it deserves note that both the children were studying in a Nursery School and from a young age. The father himself was employed in the Army. Taking an overall view of the circumstances of the claimants and the deceased, in the context of the relevant factors as discussed earlier, it would be fair and just to hold them entitled to a sum of Rs. 35,000 on account of the death of their two daughters.

(10) The parents of the two deceased are accordingly hereby awarded a sum of Rs. 35,000 (Rupees thirty five thousand only) as compensation while the compensation payable to the claimant Rupinder Singh is hereby enhanced to Rs. 15,000.

(11) The claimants shall be entitled to the compensation awarded along with interest at the rate of 12 per cent per annum from

(1) 1979 P.L.R. 1.

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the date of the application to the date of the payment of the amount awarded.

(12) The liability for the amount awarded shall be that of respondent—Jaswant Singh.

(13) In the result, both the appeals are hereby accepted with costs. Counsel fee Rs. 500 (One set only).

H.S.B.

Before J. V. Gupta, J.

MEHAR SINGH,—Appellant.

versus

KEHAR SINGH AND OTHERS,—Respondents.

First Appeal From Order No. 34 of 1985.

August 8, 1985.

Land Acquisition Act (1 of 1894)—Sections 18, 30, 45 and 53—Application under sections 18 and 30 of the Act made before the Collector—Said application referred to District Judge for decision—Summons issued by District Judge and service effected by registered post and affixation—Copy of application not served with the summons sent by registered post—Service of summon without application—Whether deemed to be valid service.

Held, that section 45 of the Land Acquisition Act, 1894 deals with the service of summons and section 53 thereof provides that the provisions of Code of Civil Procedure shall apply to proceedings before the court save in so far as they are inconsistent with anything contained in this Act. Since there is a specific provision for the service of the notice under the Act as provided under section 45 of the Act the service was to be effected accordingly. As such there was no need to send a copy of application alongwith summons as it was a reference made by the Collector in respect of application filed under section 18 and 30 of the Act and the only notice that was to be sent was that such a reference had been made by the Collector which could be contested. In this view of the matter it has to be held that although a copy of the application aforementioned had not been sent yet valid service had been effected on the party.

(Paras 4 & 5)